

Enigma, Georgia, on April 26, 2013, more than four (4) months prior to the filing of Defendants Donaldson and Sellars' Motion for Summary Judgment. (Docs. 25, 35). Plaintiff has continued to request that his mail be sent to that address in Enigma, Georgia. (Docs. 37, 38, 40). Plaintiff's use of his Enigma, Georgia address has been evident on the docketing for this case since April 26, 2013.

However, both certificates of service filed by Defendants Donaldson and Sellars reflect service of their summary judgment motion at a Bainbridge, Georgia address. *See* Docs. 35, 48. Despite being provided the opportunity to correct the initial improper Certificate of Service, the Defendants have failed to provide proper and complete certification to the Court that the Plaintiff was properly served with the Motion for Summary Judgment pending herein. *Id.* The Court notes that the Plaintiff did not file a response to these Defendants' Motion for Summary Judgment, and has indicated that he has experienced difficulties receiving his legal mail. (Doc. 37). Plaintiff did file a response to the Motion for Summary Judgment filed by Defendant Alvarez, which was served using Plaintiff's Enigma, Georgia address. (Docs. 33, 38). Thus, it is not clear that Plaintiff ever received Defendants Donaldson and Sellars' Motion for Summary Judgment. Although he requested an extension of time to respond to the motion, Plaintiff may have only received the Court's notification order regarding the filing of the motion. (Docs. 36, 40).

Inasmuch as the record herein belies proper service of the Plaintiff with their Motion for Summary Judgment, and the Court has no confirmation that the Plaintiff was ever actually served with the motion, it is the recommendation of the undersigned that Defendants Donaldson and Sellars' Motion for Summary Judgment be **DENIED**. If Defendants Donaldson and Sellars wish to re-file their Motion for Summary Judgment, it is the Recommendation of the undersigned that

they be required to first seek leave of Court, as the time for filing dispositive motions in this case has passed.

Objections

Pursuant to 28 U.S.C. § 636(b)(1), the parties may file written objections to the recommendations herein with the Honorable Hugh Lawson, United States District Judge, WITHIN FOURTEEN (14) DAYS after being served with a copy of this Recommendation.

SO RECOMMENDED, this 6th day of February, 2014.

s/ ***THOMAS Q. LANGSTAFF***

UNITED STATES MAGISTRATE JUDGE

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